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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/308,408    06/28/99    FELLINGER    A    FLA-0010

QM32/0727

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EXAMINER

LUONG, S

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

07/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/308,408**

Applicant(s)  
**Fellinger**

Examiner  
**Shian Lam**

Group Art Unit  
**3728**



☒ Responsive to communication(s) filed on Jul 17, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 16 and 17 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 16 and 17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

*Shian Lam*

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zackheim (US 3,162,306) in view of Moser et al (US 3,941,248). Zackheim discloses a package for medical pads comprising an envelope formed by sheet 31 and a lid 34. A plurality of compartments are formed based on the number and size of the medical pads. A breaking groove is formed on the laminate to allow a user to break through the lid 34. Zackheim discloses most of the limitations of the claims, except for the foil material. However, Moser et al disclose a roll of blister pack formed by foil base and foil lid. The user can push through the lid to reach the content. Therefore, it would have been obvious in view of Moser et al to use foil material for the package of Zackheim to prevent bacterial buildup in the groove area and therefore prevents infection.

3. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid (US 4,574,954) in view of Moser et al. Reid discloses a lid sheet 16 covering a sheet 11 with a plurality of depressions for holding articles therein. The user pushes through both sheets to obtain the article. Reid discloses most of the limitations of the claims, except for the foil material on the base. However, Moser et al disclose a roll of blister pack formed by foil base and foil lid. The

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user can push through the lid to reach the content. Therefore, it would have been obvious in view of Moser et al to use foil material for the base of Reid to prevent excess moisture buildup.

### ***Response to Arguments***

4. Applicant's arguments filed on 5/16/00 have been fully considered but they are not persuasive. Applicant argues that the package of Zackheim is not flexible as required by claim 16. However, the term "relatively heavy backing" is a relative term and does not imply the package is not flexible. In fact, Zackheim stated in column 3, lines 32-35 that "...a backing sheet 31 which is relatively heavy compared with the cover for the package and normally considerably heavier than the product sheet from which the pads are cut." In other words, the backing sheet only has to be a little heavier than the product and cover sheets. Even if the material used is of a paperboard type, the thickness of the paperboard is so thin (.015-.020 inches) that the paperboard is relatively flexible. Moreover, the flexible aluminum foil facilitate removal of the article wherein the user only needs to push through the foil to obtain the article.

### ***Conclusion***

5. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without

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contacting the examiners, M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703)305-3570.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Lam whose telephone number is (703) 308-2039.

STL

July 26, 2000

Shian Luong

  
Patent Examiner